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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,756	10/01/2004	Jeff DeFazio	SunReader	5755
23217	7590	02/17/2005	EXAMINER	
GLENN L. WEBB P.O BOX 951 CONIFER, CO 80433			VARGOT, MATHIEU D	
			ART UNIT	PAPER NUMBER
			1732	

DATE MAILED: 02/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/711,756	<b>Applicant(s)</b> DEFAZIO, JEFF	
	<b>Examiner</b> Mathieu D. Vargot	<b>Art Unit</b> 1732	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 1-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/1/04</u> . | 6) <input type="checkbox"/> Other: ____  |

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-20, drawn to a lens assembly for sunglasses, classified in class 359, subclass 159.
- II. Claims 21-33, drawn to a method of injection molding and coating a lens, classified in class 264, subclass 1.7.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the eyeglass lens may be manufactured via a grinding process.

During a telephone conversation with Mr. Glenn Webb on February 9, 2004 a provisional election was made without traverse to prosecute the invention of Group II, claims 21-33. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-20 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudd et al (see 34 in Figs. 13 and 17) in view of Bakalar -854 and Dillon (see col. 1, lines 9-11 and col. 10, line 30).

Rudd et al discloses a process for molding a bifocal or corrective lens portion (front lens 10) using the instant two injection molds, the outer mold (that encompassing base curve 54) forming the body of the lens—ie, outer lens blank-- and the inner mold (ie, insert segment 34) forming the corrective or light magnifying portion—ie, inner lens blank.

Rudd et al (see col. 5, line 62) teaches that the mold disclosed therein is used in an injection mold as shown in Bakalar -854 and the latter has been added to the rejection to merely show what the primary reference is in fact already disclosing. Rudd et al essentially fails to show that the lens is dyed and coated with a hard metallic coating “to disguise” the focal powers. Dillon discloses that dyeing or tinting followed by coating with a metal (such as chromium) to form a reflective mirror surface on lenses intended for sunglasses is well known in the art. It is submitted that one of ordinary skill in the art would have modified the method of Rudd et al as taught by Dillon and provided a tinting and metallic coating thereon dependent on whether the glasses were to be used as sunglasses. The exact amount of metallic coating would have been within the skill level of the art dependent on the degree of reflectivity desired for the mirror sunglasses. Hence, coating in a sufficient amount “to disguise” the focal powers would certainly have been obvious for the additional aesthetic effect such would have provided.


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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on 571 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot  
February 15, 2005

  
Mathieu D. Vargot  
Primary Examiner  
Art Unit 1732

2/15/05